

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 23.01.2017

Coram

The Honourable MRS.JUSTICE PUSHPA SATHYANARAYANA

Tr.C.M.P.No.614 of 2016

and C.M.P.No.16599 of 2016

Ramya Rekha ... Petitioner

vs.

Dr.C.Srinivasakannan Respondent

Transfer Civil Miscellaneous Petition filed under Section 24 of the Code of Civil Procedure praying to withdraw the proceedings in HMOP No.2127 of 2016 pending on the file of the III Additional Family Court, Chennai and to transfer the same to the file of the I Additional Family Court at Coimbatore.

For Petitioner : Mr.T.Elumalai
For Respondent : Mr.R.Perumal Raj

ORDER

The above Transfer Civil Miscellaneous Petition is filed by the petitioner/wife in a matrimonial dispute to withdraw HMOP No.2127 of 2016 filed by the respondent/husband under Section 13 (1)(ia) of the Hindu Marriage Act, 1955 seeking divorce before the III Additional Family Court, Chennai and to transfer the same to the file of the I Additional Family Court at Coimbatore, wherein she has filed M.C.No.154 of 2015 for maintenance.

2. The petitioner/wife has alleged cruelty in the hands of the respondent/husband and filed the above maintenance petition before the I Additional Family Court, Coimbatore for maintenance. It is stated that the respondent/husband had deserted her without any just and reasonable cause and filed HMOP No.2127 of 2016 before the III Additional Family Court at Chennai, based on false allegations. The petitioner/wife also had stated that she is not having independent income and has difficulty to travel to Chennai to attend HMOP hearings, whereas the respondent/husband is already attending the maintenance case filed by her in Coimbatore. Accordingly, the above petition has been filed seeking transfer.

3. The transfer petition was resisted by the respondent/husband by contending that he is living in Abu Dhabi and he is promptly attending the proceedings every time by making his appearance. According to him, it is more convenient for him to reach Chennai rather than Coimbatore. Expressing the difficulty of travelling, it is also stated that the husband is raising the children in the other country.

4. Heard both sides.

5. As stated earlier, the petitioner/wife is living in Coimbatore. In para No.4 of the counter affidavit filed by the respondent/husband it is seen that the proceedings in D.V.No.18 of 2016 filed by the petitioner/wife before the learned Judicial Magistrate No.1, Coimbatore was stayed by this Court vide order dated 10.08.2016 in Crl.O.P.No.17238 of 2016. Further in the counter affidavit nothing has been stated by the respondent/husband about attending the hearings at Coimbatore in the maintenance petition.

6. Whereas the petitioner/wife, in her affidavit, had stated that she was forced to leave Abu Dhabi when the second child was sick and later the respondent/husband has filed the petition for divorce before the Family Court at Chennai.

7. From the perusal of the materials available on record, it is seen that it is the respondent/husband who has filed the HMOP for dissolution of marriage before the Family Court at Chennai mentioning the address of the wife as Coimbatore. The respondent/husband knowing very well that the petitioner/wife is living at Coimbatore could have filed the same before the Family Court at Coimbatore. It is also seen that already the petitions filed by the petitioner/wife in M.C.No.154 of 2015 and D.V.No.18 of 2016 are pending only before the Courts at Coimbatore. Since already the respondent/husband is travelling to Coimbatore to attend the hearings in the maintenance petition, this Court is of the view that the petition filed by him seeking divorce before the Family Court, Chennai may also be transferred to the Family Court at Coimbatore, so that it will be easier for him to attend the hearings in all the pending proceedings. Further Section 19(iii-a) of the Hindu Marriage Act, 1955 being a benevolent provision, intends to confer benefit only on the wife in respect of the choice of jurisdiction.

8. Considering the aforesaid facts and circumstances of the case and also in the interest of justice, the HMOP No.2127 of 2016 filed by the respondent/husband before the III Additional Family Court at Chennai is withdrawn and transferred to the file of the I Additional Family Court at Coimbatore, to be tried along with M.C.No.154 of 2015 pending on its file.

9. With the above direction, this transfer civil miscellaneous petition is ordered accordingly. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

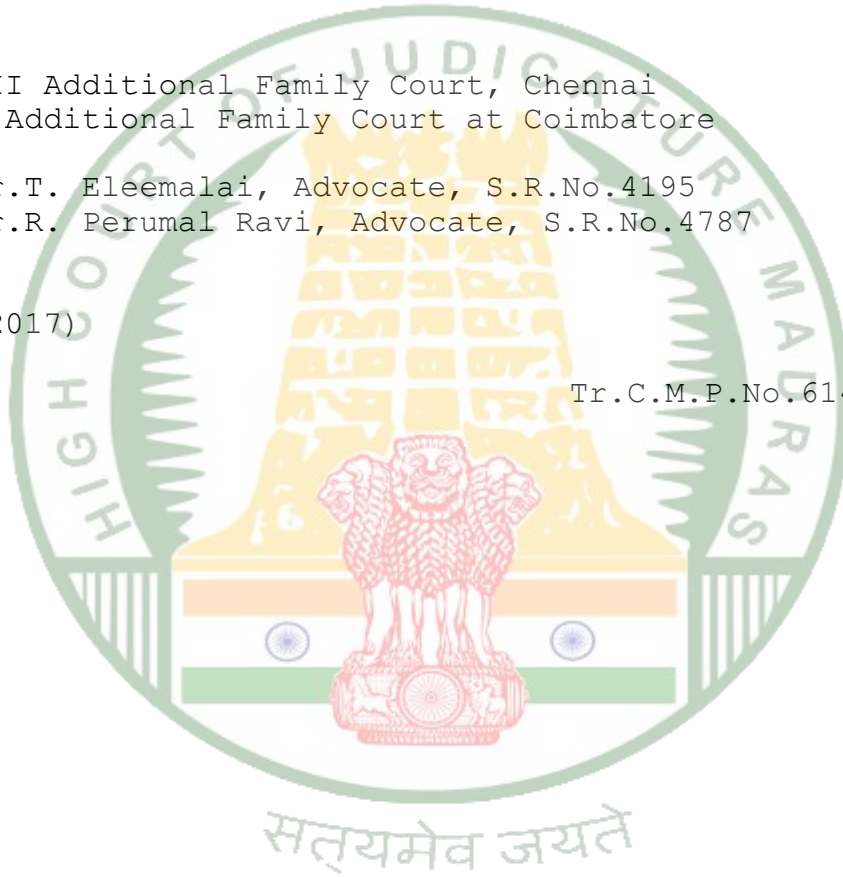
1. The III Additional Family Court, Chennai
2. The I Additional Family Court at Coimbatore

+1cc to Mr.T. Eleemalai, Advocate, S.R.No.4195

+1cc to Mr.R. Perumal Ravi, Advocate, S.R.No.4787

ppa (CO)
md(08/02/2017)

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